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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,909	03/05/2002	John Slabich	50047590-0045	9188

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EXAMINER

HO, THOMAS Y

ART UNIT PAPER NUMBER

3677

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/091,909

Applicant(s)

SLABICH ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

Claims 1-24 are pending. No claims have been cancelled.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3, 5-7, 13-20, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Elsner US4841102.**

As to claim 1, Elsner discloses an air seal system comprising, a baffle board 1,2 having a passage 7 coupled to a gland 3 so as to form a break in the gland; and a cord gasket 9 comprising a first end, a second end, and a segment positioned between the first end and the second end, where the segment is positioned in the gland of the baffle board and the first end and second end are positioned in the passage.

As to claim 2, Elsner discloses, where the passage leads into a pocket (cavity defined by 7) having a depth and where at least one of the first end and the second end are positioned in the pocket.

As to claim 3, Elsner discloses, where the pocket depth is greater than a depth of the gland.

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As to claim 5, Elsner discloses, where the passage leads into a notch (cone-shaped bottom portion of 7) and where at least one of the first end and the second end are positioned in the notch.

As to claim 6, Elsner discloses, where the passage further leads into a pocket.

As to claim 7, Elsner discloses, where the second end of the cord gasket is positioned in the pocket.

As to claim 13, Elsner discloses, where the first end and the second end are positioned in the passage to overlap one another and a depth of the passage is greater than a depth of the gland.

As to claim 14, Elsner discloses, where the first end is secured in a first notch and the second end is secured in a second notch at a location that is remote from the first end.

As to claim 15, Elsner discloses, an air seal system having a housing 4 and a baffle board 1,2, the air seal system comprising, means 9 for creating an airtight seal between the baffle board and the housing.

As to claim 16, Elsner discloses, wherein the creating means includes a passage 7 in the baffle board coupled to a gland 3 to form a break in the gland.

As to claim 17, Elsner discloses, where the creating means further includes a cord gasket 9 having a first end and a second end positioned in the passage.

As to claim 18, Elsner discloses, wherein the creating means includes a pocket in the baffle board having a depth and where at least one of a first end and a second end of a cord gasket are positioned in the pocket.

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As to claim 19, Elsner discloses, wherein the creating means further includes a passage in the baffle board coupled to a gland to form a break in the gland and where the pocket depth is greater than a depth of a gland.

As to claim 20, Elsner discloses, wherein the creating means includes at least one notch in the baffle board and where at least one of a first end and a second end of a cord gasket are positioned in the at least one notch.

As to claim 23, Elsner discloses, wherein the baffle board includes a gland and the creating means includes overlapping ends of a cord gasket within a passage in the baffle, where the depth of the passage is greater than a depth of the gland.

As to claim 24, Elsner discloses, where the creating means includes a first notch in the baffle board positioned at a remote location from a second notch in the baffle board and a cord gasket having a first end secured in the first notch and a second end secured in the second notch.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elsner**

**USPN4841102 in view of cited case law.**

As to claim 4, the difference between the claim and Elsner is the claim recites, where the depth of the pocket is approximately 0.5 inch to 1.0 inch. Elsner discloses a pocket that could possibly be 0.5 to 1.0 inches, but the exact measurements are never explicitly stated. A change

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in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the depth of the pocket disclosed by Elsner to be 0.5 to 1.0 inch because changes in size are design considerations within the skill of the art.

**Claims 8-9 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elsner USPN4841102 in view of Sundell USPN1816301.**

As to claim 8, the difference between the claim and Elsner is the claim recites, where the passage comprises a first wall having a first tab and a second wall comprising a second tab, where the first tab and second tab face one another to define a gap. Elsner discloses that the cord can be a hose (col.1, ln.10-15). Sundell discloses a hose similar to that of Elsner. In addition, Sundell further teaches a first wall (top half of Figure 1) having a first tab 7 and a second wall (bottom half of Figure 1) comprising a second tab 7, where the first tab and the second tab face one another to define a gap. It would have been obvious to one of ordinary skill in the art, having the disclosures of Elsner and Sundell before him at the time the invention was made, to modify the hose of Elsner to be clipped/clamped, as in Sundell, to obtain a means for mounting side-by-side hose portions. One would have been motivated to make such a combination because the ability to detachably fix the hose parts would have been achieved, as taught by Sundell (col.1, ln.25-30).

As to claim 9, Sundell teaches, where a distance of the gap is less than a distance of a cross-sectional diameter of the cord gasket.

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As to claim 21, Sundell teaches, where the passage comprises a first wall having a first tab and a second wall comprising a second tab, where the first tab and second tab face one another to define a gap.

As to claim 22, Sundell teaches, where a distance of the gap is less than a distance of a cross-sectional diameter of the cord gasket.

**Claims 8-12 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elsner USPN4841102 in view of Padrun USPN4617775.**

As to claim 8, the difference between the claim and Elsner is the claim recites, where the passage comprises a first wall having a first tab and a second wall comprising a second tab, where the first tab and second tab face one another to define a gap. Padrun discloses a clip assembly holding two bodies in an orientation similar to that of Elsner. In addition, Padrun further teaches, where the passage comprises a first wall 18 having a first tab 18c and a second wall 19 comprising a second tab 19c, where the first tab and second tab face one another to define a gap 20. It would have been obvious to one of ordinary skill in the art, having the disclosures of Elsner and Padrun before him at the time the invention was made, to modify the passage of Elsner to have a clip portion, as in Padrun, to obtain a means for clipping two cylindrical bodies side-by-side. One would have been motivated to make such a combination because the ability to snap the bodies together to be extensible to various combined lengths while remaining clamped would have been achieved, as taught by Padrun (col.1, ln.30-35).

As to claim 9, Padrun teaches, a distance of the gap is less than a distance of a cross-sectional diameter of the cylindrical body 11.

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As to claim 10, Padrun teaches, a surface of the first tab and a surface of the second tab each are chamfered to define a V-shaped groove (col.2, ln.37-45).

As to claim 11, Padrun teaches, the V-shaped groove defines an angle that ranges from approximately 25 degrees to 150 degrees.

As to claim 12, Padrun teaches, at least one of the first tab and the second tab is configured to flex when pressed from a first side and configured to remain rigid when pressed from a side generally opposite of the first side.

As to claim 21, Padrun teaches, where the passage comprises a first wall 18 having a first tab 18c and a second wall 19 comprising a second tab 19c, where the first tab and second tab face one another to define a gap 20.

As to claim 22, Padrun teaches, a distance of the gap is less than a distance of a cross-sectional diameter of the cylindrical body 11.

**Claims 8-9 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elsner USPN4841102 in view of Chou USPN5331725.**

As to claim 8, the difference between the claim and Elsner is the claim recites, the passage comprises a first wall having a first tab and a second wall comprising a second tab, where the first tab and second tab face one another to define a gap. Chou discloses cylindrical bodies arranged in a manner similar to that of Elsner. In addition, Chou further teaches, the passage comprises a first wall 22 having a first tab 33 and a second wall 24 comprising a second tab 34, where the first tab and second tab face one another to define a gap. It would have been obvious to one of ordinary skill in the art, having the disclosures of Elsner and Chou before him at the time the invention was made, to modify the passage of Elsner to include a clip, as in Chou,



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to obtain a means to clip two cylindrical bodies in a side-by-side manner. One would have been motivated to make such a combination because the ability to hold two cylindrical members in juxtaposition would have been achieved, as taught by Chou (col.6, ln.50-55).

As to claim 9, Chou teaches, a distance of the gap is less than a distance of a cross-sectional diameter of the cord gasket 30.

As to claim 21, Chou teaches, the passage comprises a first wall 22 having a first tab 33 and a second wall 24 comprising a second tab 34, where the first tab and second tab face one another to define a gap.

As to claim 22, Chou teaches, a distance of the gap is less than a distance of a cross-sectional diameter of the cord gasket 30.

**Claims 8-11 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elsner US4841102 in view of Jinkins US4298204.**

As to claim 8, the difference between the claim and Elsner is the claim recites, the passage comprises a first wall having a first tab and a second wall comprising a second tab, where the first tab and second tab face one another to define a gap. Jinkins discloses a seal for mating surfaces using a gasket, similar to that of Elsner. In addition, Jinkins further teaches, where the passage comprises a first wall 4 having a first tab 9 and a second wall 2 comprising a second tab 11, where the first tab and second tab face one another to define a gap. It would have been obvious to one of ordinary skill in the art, having the disclosures of Elsner and Jinkins before him at the time the invention was made, to modify the passage of Elsner to have tabs, as in Jinkins, to obtain tabs to contact a gasket in a seal. One would have been motivated to make

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such a combination because the ability to provide a seal without requiring close tolerances would have been achieved, as taught by Jinkins (col.1, ln.55-65).

As to claim 9, Jinkins teaches, where a distance of the gap is less than a distance of a cross-sectional diameter of the cord gasket.

As to claim 10, Jinkins teaches, where a surface of the first tab and a surface of the second tab each are chamfered to define a V-shaped groove (two V-shaped grooves are defined on each side of 11).

As to claim 11, Jinkins teaches, where the V-shaped groove defines an angle that ranges from approximately 25 degrees to 150 degrees.

As to claim 21, Jinkins teaches, wherein the creating means includes a first wall in the baffle board having a first tab and a second wall in the baffle board having a second tab and where the first tab and second tab face one another to define a gap.

As to claim 22, Jinkins teaches, wherein a distance of the gap is less than a distance of a cross-sectional diameter of a cord gasket located in the gap.

### ***Response to Arguments***

Applicant's arguments, see the amendment, filed 1/16/04, with respect to the rejection(s) of claim(s) 1 and 15 under 35 USC 103(a) using Elsner have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Elsner with 35 USC 102(b).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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US3491825 to Peterson discloses a seal means having a gasket mounted in a groove having mounting tabs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TYH

  
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